

B-15154

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CARIDAD ST. GERMAIN,

Plaintiff,

Judge: Batts

CV-07-3766

-against-

OTTO FERMIN,

Defendant.

ANSWER,
DEMAND FOR VERIFIED
WRITTEN INTERROGATORIES
AND DEMANDS

-----X

The Defendant, OTTO FERMIN by his attorneys, answering the complaint herein, alleges upon information and belief as follows:

1. Denies any knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs marked 1 and 9 of the complaint herein.
2. Denies each and every allegation contained in the paragraphs marked 3, 4, 12, 13, 14, 15, 16 and 17 of the complaint herein.
3. Denies each and every allegation contained in the paragraphs marked 10 and 11 of the complaint herein except admits contact with an individual.

**AS AND FOR A FIRST SEPARATE AND DISTINCT
AFFIRMATIVE DEFENSE
TO THE ENTIRE ACTION, THE DEFENDANT RESPECTFULLY
ALLEGES UPON INFORMATION AND BELIEF:**

If the Plaintiff sustained any injuries and/or damages at the time and place alleged in the complaint, the Plaintiff assumed the risk inherent in the activity in which Plaintiff was then engaged and further such injuries and/or damages were caused by reason of the culpable conduct and/or negligence of the Plaintiff without any negligence on the part of the Defendant contributing thereto.

**AS AND FOR A SECOND SEPARATE AND DISTINCT
AFFIRMATIVE DEFENSE
TO THE ENTIRE ACTION, THE DEFENDANT RESPECTFULLY
ALLEGES UPON INFORMATION AND BELIEF:**

That the said action is barred and precluded by virtue of Article 51, Sections 5101, 5102, 5103 and 5104 of the New York State Insurance Law.

**AS AND FOR A THIRD SEPARATE AND DISTINCT
AFFIRMATIVE DEFENSE
TO THE ENTIRE ACTION, THE DEFENDANT RESPECTFULLY
ALLEGES UPON INFORMATION AND BELIEF:**

Upon information and belief, any past or future costs or expenses incurred or to be incurred by the Plaintiff for medical care, dental care, custodial care or rehabilitative services, loss of earnings or other economic loss, has been or will with reasonable certainty be replaced or indemnified in whole or in part from the collateral source as defined in Section 4545(c) of the New York Civil Practice Law and Rules. If any damages are recoverable against this said answering Defendant, the amount of such damages shall be diminished by the amount of the funds which Plaintiff has or shall receive from such collateral source.

WHEREFORE, the Defendant, OTTO FERMIN demands judgment against the Plaintiff herein, dismissing the complaint together with the costs and disbursements of this action.

Dated: Queens, New York
June 11, 2007

Yours, etc.

LAW OFFICES OF NANCY L. ISSERLIS

By: _____
Francis M. Cerniglia
FMC-8188
Attorneys for Defendant
OTTO FERMIN
Office & P.O. Address
36-01 43rd Avenue
Long Island City, New York 11101
718-361-1514

To: LOSCALZO & LOSCALZO, P.C.
Attorneys for Plaintiff
14 East 4th Street
New York, New York 10012
212-505-9080
File No.: MSK16485

B-15154

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CARIDAD ST. GERMAIN,

Judge: Batts

Plaintiff,

CV-07-3766

-against-

OTTO FERMIN,

DEMAND FOR
INTERROGATORIES

Defendant.
-----X

PLEASE TAKE NOTICE that the Defendant request that the Plaintiff respond under oath to the following interrogatories within thirty (30) days from the date of service (F.R.C.P.):

1. State the date and approximate time of day of the occurrence and the location at which the occurrence took place.

2. Set forth a general statement of the acts or omissions constituting the negligence Plaintiff claims on the part of the Defendant.

3. If it will be claimed that the Defendant violated any laws, rules, regulations and/or ordinances, set forth which laws, rules, regulations and/or ordinances Plaintiff claims were violated.

4. Set forth the nature, extent, location and duration of each injury alleged to have been sustained by each Plaintiff.

5. State in detail the manner in which the injured Plaintiff claims to have sustained a serious injury as defined in Section 5102(2) of the Insurance Law of the State of New York.

6. Set forth the date that each injured Plaintiff was:

- a. confined to hospital including emergency room care;
- b. confined to bed;
- c. confined to house;
- d. incapacitated from school and/or employment;

7. Set forth the amounts claimed by Plaintiff for special damages;

- a. physicians' services;
- b. nurses' services;
- c. medical supplies;
- d. hospital expenses;
- e. loss of earnings;
- f. other.

8. State with regard to injured Plaintiff:

- a. name and address of employer;

- b. nature of employment including duties customarily performed by Plaintiff;
- c. wages or salary (gross) per week or month
- d. name and address of school attended if Plaintiff was a student at the time of the accident.

Dated: Queens, New York
June 11, 2007

Yours, etc.
LAW OFFICES OF NANCY L. ISSERLIS

By: _____
FRANCIS M. CERNIGLIA
FMC-8188
Attorneys for Defendant
Office & P.O. Address
36-01 43rd Avenue
Long Island City, New York 11101
718-361-1514

File No.: B-15154

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CARIDAD ST. GERMAIN,

Judge: Batts

Plaintiff,

CV-07-3766

-against-

OTTO FERMIN,

NOTICE FOR PHYSICAL
EXAMINATION

Defendant.

-----X

PLEASE TAKE NOTICE, that pursuant to the Federal Rules of Civil Procedure the physical examination of the Plaintiff is to be held at the offices of a physician to be designated not more than thirty (30) days following the deposition of the Plaintiff.

Demand is hereby made for copies of all hospital records and medical records and such other records including x-rays and technicians reports as may be referred to and identified in the statement of Plaintiff's physicians.

Dated: Queens, New York
June 11, 2007

Yours, etc.
LAW OFFICES OF NANCY L. ISSERLIS

By:

FRANCIS M. CERNIGLIA

FMC-8188

Attorneys for Defendant

OTTO FERMIN

Office & P.O. Address

36-01 43rd Street

Long Island City, New York 11101

718-361-1514

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

CARIDAD ST. GERMAIN,

Judge: Batts

Plaintiff,

CV-07-3766

-against-

OTTO FERMIN,

NOTICE TO TAKE
DEPOSITION

Defendant.

-----X

PLEASE TAKE NOTICE, that pursuant to the Federal Rules of Civil Procedure, the testimony, upon oral examination of all parties will be taken before a notary public who is not an attorney, or employee of an attorney, for any party or prospective party herein and is not a person who would be disqualified to act as a juror because of interest or because of consanguinity or affinity to any party herein, at:

DISTRICT COURT OF U.S./EASTERN DISTRICT OF NEW YORK

on the *10th* day of **SEPTEMBER, 2007** at **10:00 in the forenoon** of that day with respect to evidence material and necessary in the defense of this action:

ALL of the relevant facts and circumstances in connection with the accident which occurred on the 03/09/2007 including negligence, contributory negligence, liability and damages.

That the said person to be examined is required to produce at such examination all books, records, documents and other materials related to the accident.

Dated: Queens, New York
June 11, 2007

Yours, etc.

LAW OFFICES OF NANCY L. ISSERLIS

By: _____

FRANCIS M. CERNIGLIA

FMC-8188

Attorneys for Defendant

Office and P.O. Address

36-01 43rd Avenue

Long Island City, New York 11101

File No.: B-15154

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CARIDAD ST. GERMAIN,

Judge: Batts

Plaintiff,

CV-07-3766

-against-

OTTO FERMIN,

REQUEST FOR PRODUCTION
OF DOCUMENTS

Defendant.
-----X

PLEASE TAKE NOTICE, that pursuant to Federal Rules of Civil Procedure the Defendant request that the Plaintiff furnish the following documents within thirty (30) days from the date of service of this request:

1. Narrative reports from each physician or other medical provider who has treated or examined each injured Plaintiff for the injuries claimed to have been sustained in the accident which forms the basis of this lawsuit. These shall include a detailed recital of Plaintiff's injuries and conditions, referring to and identifying those X-rays, CT scans, MRI films, tests and technician's reports relied upon.

2. Duly executed authorizations permitting Defendant's counsel to obtain the following with respect to the injuries and damages claimed to have been sustained in the accident which forms the basis of this lawsuit:

- a. No-fault file;
- b. hospital records;
- c. medical records;
- d. employment records;
- e. tax records;
- f. workers compensation records;
- g. X-ray, MRI, CT scan films;
- h. other tests performed;
- i. collateral source records and reports.

3. If prior to this accident, Plaintiff sustained injury to any part of the body claimed to have been injured in the accident which forms the basis of this lawsuit, furnish duly executed authorizations permitting Defendant's counsel to obtain the following with respect to each prior injury:

- a. No-fault file;
- b. hospital records;
- c. medical records;
- d. employment records;
- e. tax records;
- f. workers compensation records;
- g. X-ray, MRI, CT scan films;
- h. other tests performed;
- i. collateral source records and reports.

4. Statements in any form taken of the Defendants, their agents, servants and/or

employees.

5. The name and address of any and all witnesses with respect to the issues raised by this lawsuit.

6. Photographs showing:

- a. the automobiles Plaintiff claims were involved in the accident;
- b. the location of the accident;
- c. injuries to the Plaintiff.

7. If damage to property is claimed, all repair bills or estimates for property damages claimed.

Dated: Queens, New York
June 11, 2007

Yours, etc.
LAW OFFICES OF NANCY L. ISSERLIS

By: _____
FRANCIS M. CERNIGLIA
FMC-8188
Attorneys for Defendant
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36-01 43rd Avenue
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